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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/267,350	03/15/1999	VLADIMIR POGREBINSKY	P-2279-US	6944

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WELSH & FLAXMAN LLC
2000 DUKE STREET, SUITE 100
ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, PHUONGCHAU BA

ART UNIT	PAPER NUMBER
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2616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/267,350

Applicant(s)

POGREBINSKY ET AL.

Examiner

Phuongchau Ba Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8 and 15-23 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 3 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-9-4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claim Objections

1. Claims 2, 13 are objected to because of the following informalities:

-Claim 2, line 2, "said" should be deleted;

-Claim 13, line 2, "and" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4-5, 9-10, 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki (4,453,247).

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Regarding claim 1, Suzuki discloses a method for controlling jitter buffer size for a jitter buffer (a variance absorbing buffer 11-fig.1) of a communication device (speech packet terminal 2, fig.1) for communication with a network (packet switching network, col.2, line 42), the method comprising the steps of:

Monitoring network activity (monitoring the receiving speech packets activity depending on a transmission delay time-likelihood, emphasis added, see abstract, lines 7-14) and determining at least one burst period (talkspurt period, see abstract, lines 7-8) from said network activity;

Analyzing said at least one burst period (talkspurt period) and determining a likelihood (the transmission delay time) for at least one subsequent burst period (next talkspurt period) therefrom (abstract, lines 14-19); and

Adjusting said jitter buffer size based on said determined likelihood (the transmission delay time) for said at least one subsequent burst period (next talkspurt period, see abstract, lines 14-19).

Regarding claim 2, Suzuki further discloses adjusting said jitter buffer size is accordance with the detection of said at least one additional subsequent burst period (abstract, lines 14–19).

Regarding claim 4, Suzuki further discloses wherein said step of adjusting said jitter buffer size includes making an estimate of said jitter buffer size and adjusting said jitter buffer size in accordance with said estimate (abstract, lines 14–19).

Regarding claim 5, Suzuki further discloses wherein said step of monitoring said network activity for said at least one burst period (talkspurt period) includes monitoring said network activity for one burst period (abstract, lines 7–19).

Regarding claim 9, Suzuki discloses an audio receiver (fig.2) comprising a jitter buffer (variance buffer 11–fig.2); and a controller (variance computing circuit 13–fig.2) for said jitter buffer (11–fig.2), said controller programmed to:

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monitor network activity and determine at least one burst period from said network activity (abstract, lines 7-14); and adjust said jitter buffer size (11-fig.2) based on said monitoring said network activity (monitoring the receiving speech packets activity) for said at least one burst period (talkspurt period, see abstract, lines 7-19).

Regarding claim 10, Suzuki further discloses a storage unit (packet receiving circuit 16-fig.2) in operative communication with said controller (variance computing circuit 13-fig.2).

Regarding claim 13, Suzuki discloses an audio receiver (fig.2) comprising:

a jitter buffer (variance buffer 11-fig.2); and

means for monitoring network activity (monitoring activity of receiving the speech packets in a talkspurt period) and determining at least one burst period (talkspurt period) from said network activity (abstract, lines 7-14); and

means for adjusting said jitter buffer (variance buffer 11-fig.2) to a size (determined size) in accordance with said monitoring of said network activity for said at least one burst period (abstract, lines 14-19).

Regarding claim 14, Suzuki further discloses wherein said network activity monitoring means and adjusting means includes a controller (variance computing circuit 13-fig.3) programmed to monitor activity on said network (monitoring receiving speech packets activity, emphasis added) for at least one burst period (talkspurt period) and to adjust said jitter buffer size based on said monitoring of said activity on said network (abstract, lines 7-19, see also fig.2).

Claim Rejections – 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Lumelsky (6,246,672).

Suzuki does not explicitly disclose a decompressor in communication with an amplifier and buffer.

Lumelsky (6,246,672) discloses a decompressor 329 in communication with an amplifier 324 and buffer 328 {fig.3}. Therefore, it would have been obvious to a skilled artisan to implement the decompressor 329 in communication with the amplifier 324 and buffer 328 as taught by Lumelsky's system (fig.3) into the receiver 2, which has the jitter buffer (variance absorbing buffer 11 in fig.1), as taught by Suzuki and the motivation being to provide a spoken command by the decompressor {col.21, lines 30-33 & col.22, lines 5-12; Lumelsky} and to amplify the signals at the speakers to properly drive the speakers by using the amplifier {col.21, lines 44-46; Lumelsky}.

Allowable Subject Matter

1. Claims 7-8, 15-23 are allowed over the prior art of the record.
2. Claims 3, 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 10-28-02 have been fully considered but they are not persuasive.

A/. Applicant argued that there is no detection of a burst period nor any determination of a likelihood of such event (Remarks, page 2, second paragraph).

In reply, applicant is directed to abstract, lines 15-20 wherein based on the speech packets received in one talkspurt period to determine the transmission delay times (likelihood) for the next talkspurt (burst period).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schmidt (3,806,879); Kirk (4,951,680); Waclawsky (5,446,874);

Akin (5,544,135); Lagree (5,627,716); Weigand (5,802,076)

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuongchau Ba Nguyen whose telephone number is 571-272-3148. The examiner can normally be reached on Monday-Friday from 10:00 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571-272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

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Representative or access to the automated information system, call 800-786-

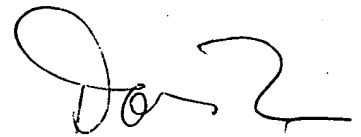
9199 (IN USA OR CANADA) or 571-272-1000.



Phuongchau Ba Nguyen

Examiner

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DORIS H. TO
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 2600